

THE  
LAW QUARTERLY  
REVIEW.

EDITED BY

SIR FREDERICK POLLOCK, BART., M.A., LL.D.

CORPUS PROFESSOR OF JURISPRUDENCE IN THE UNIVERSITY OF OXFORD.

VOL. XI.

LONDON:

STEVENS AND SONS, LIMITED, 119 & 120 CHANCERY LANE.

AGENT FOR UNITED STATES OF AMERICA, THE BOSTON BOOK CO., BOSTON.

AGENT FOR CANADA, THE CARSWELL CO., LIMITED, TORONTO.

OXFORD: AT THE CLARENDON PRESS.

1895.

82.112.

347.05  
9 LA1  
4.11

**Oxford**

**HORACE HART, PRINTER TO THE UNIVERSITY**

## INDEX OF SUBJECTS.

	PAGE
ASIATIC MIXED MARRIAGES. By M. L. Agarwala . . .	373
BALFOUR CASE, LEGAL ASPECTS OF THE. By M. J. Farrelly . . .	378
BENTHAM'S SPANISH INFLUENCE, A SPANISH VIEW OF. By Courtney Kenny . . . . .	48
BENTHAMISM, A SPANISH APOSTLE OF. By Courtney Kenny . . .	175
CHOSSES IN ACTION. By Charles Sweet . . . . .	238
COMMON LAW, THE VOCATION OF THE. By Sir F. Pollock . . .	323
COMPANY LAW, REFORM OF. By Edward Manson . . . . .	346
CONSTITUTIONAL REVISION. By A. V. Dicey, Q.C. . . . .	387
CONTRACTS, MERCANTILE, FORMS OF. By H. D. Bateson . . .	266
COPYRIGHT, IS IT A CHOSE IN ACTION? By Spencer Brod- hurst . . . . .	64
DEARLE V. HALL, THE RULE IN. By E. C. C. Firth . . . . .	337
EXAMINATION AND CROSS-EXAMINATION AS TO CHARACTER. By E. Bowen-Rowlands . . . . .	20
FOREIGN LAW, PROOF OF. By Julius Hirschfeld . . . . .	241
FRANCO-NEWFOUNDLAND CONTROVERSY, THE. By T. B. Browning . . . . .	248
FRENCH COURTS AND FOREIGN PARTIES. By Malcolm McIlwraith . . . . .	167
GENERAL AVERAGE, SUGGESTIONS FOR THE CODIFICATION OF THE LAW OF. By H. C. Dowdall . . . . .	32
HALL, W. E. (IN MEMORIAM). By T. E. Holland . . . . .	113
HOUSE OF LORDS, MR. PIKE ON THE. By Sir W. R. Anson . . . . .	86
INDIA, THE LIMITATION OF THE POWERS OF THE LEGISLA- TIVE COUNCIL IN. By C. D. Field . . . . .	278
INSURANCE LAW, NOTES ON. By A. Cohen, Q.C. . . . .	118
LAND TRANSFER ACT, THE. By Sir H. W. Elphinstone . . .	357
LAW OF NATURE, THE. By John W. Salmond . . . . .	121

	PAGE
MAINTENANCE AND EDUCATION. By W. A. Bewes . . .	76
By T. K. Nuttall . . .	172
MERCANTILE CONTRACTS, FORMS OF. By H. D. Bateson . .	266
MORTGAGES, FREEDOM OF CONTRACT IN. By E. C. C. Firth .	144
NORTH CAROLINA, COLONIAL, LANDHOLDING IN. By J. Spencer Bassett . . . . .	154
ONE MAN COMPANIES. By Edward Manson . . . . .	185
PETTY PERJURY. By His Honour Judge Chalmers . . . .	217
PROPERTY, THINGS IN ACTION AND COPYRIGHT. By T. Cyprian Williams . . . . .	223
SPECIALISM IN LAW. By the Right Hon. Sir F. H. Jeune .	11
STEPHEN, SIR JAMES FITZJAMES, LIFE OF. By Sir Courtney P. Ilbert . . . . .	383
UNITED STATES, JUDICIAL POWER IN THE. By J. Westlake, Q.C. . . . .	81

## INDEX OF CONTRIBUTORS.

	PAGE
AGARWALA, M. L.—Asiatic Mixed Marriages . . . . .	373
ANSON, SIR W. R.—Mr. Pike on the House of Lords . . . . .	86
BASSETT, J. S.—Landholding in Colonial N. Carolina . . . . .	154
BATESON, H. D.—Forms of Mercantile Contracts . . . . .	266
BEWES, W. A.—Maintenance and Education . . . . .	76
BOWEN-ROWLANDS, E.—Examination and Cross-Examination as to Character . . . . .	20
BRODHURST, SPENCER.—Is Copyright a Chose in Action? . . . . .	64
BROWNING, T. B.—The Franco-Newfoundland Controversy . . . . .	248
CHALMERS, HIS HONOUR JUDGE.—Petty Perjury . . . . .	217
COHEN, ARTHUR, Q.C.—Notes on Insurance Law . . . . .	118
DICKEY, A. V., Q.C.—Constitutional Revision . . . . .	387
DOWDALL, H. C.—Codification of the Law of General Average . . . . .	32
ELPHINSTONE, SIR H. W.—The Land Transfer Act . . . . .	357
FARRELLY, M. J.—Legal Aspects of the Balfour Case . . . . .	378
FIELD, C. D.—The Limitation of the Powers of the Legislative Council in India . . . . .	278
FIRTH, E. C. C.—Freedom of Contract in Mortgages . . . . .	144
The Rule in <i>Dearle v. Hall</i> . . . . .	337
HIRSCHFELD, JULIUS.—Proof of Foreign Law . . . . .	241
HOLLAND, T. E.—In Memoriam: W. E. Hall . . . . .	113
ILBERT, SIR COURTNEY P.—The Life of Sir James Fitzjames Stephen . . . . .	383
JEUNE, RIGHT HON. SIR F. H.—Specialism in Law . . . . .	11
KENNY, COURTNEY.—A Spanish View of Bentham's Spanish Influence . . . . .	48
A Spanish Apostle of Benthamism . . . . .	175
McILWRAITH, MALCOLM.—French Courts and Foreign Parties . . . . .	167
MANSON, EDWARD.—One Man Companies . . . . .	185
The Reform of Company Law . . . . .	346
NUTTALL, T. K.—Maintenance and Education . . . . .	172
POLLOCK, SIR F.—The Vocation of the Common Law . . . . .	323
SALMOND, J. W.—The Law of Nature . . . . .	121
SWEET, CHARLES.—Choses in Action . . . . .	238
WESTLAKE, J., Q.C.—Judicial Power in the United States . . . . .	81
WILLIAMS, T. CYPRIAN.—Property, Things in Action and Copyright . . . . .	223

# SUBJECTS OF BOOK REVIEWS AND NOTES.

	PAGE
Angus (J. W.) and Shearer (R. B.).—A Dictionary of Crimes and Offences according to the Law of Scotland . . . . .	205, 301
Ball (W. W. Rouse).—The Student's Guide to the Bar . . . . .	204
Bate (John P.).—The Student's Guide to the Bar . . . . .	204
Besta (Enrico).—Riccardo Malombra . . . . .	204
Bewes (W. A.).—The Law of Waste . . . . .	98
Borgeaud (Charles), Hazen (C. D.) and Vincent (J. M.).—Adoption and Amendment of Constitutions in Europe and America . . . . .	301, 387
Boyle (Edward) and Humphreys-Davies (G.).—Principles of Rating . . . . .	297
Brinton (W.).— <i>See</i> Wolstenholme (E. P.).	
Brooks (W. J.).— <i>See</i> Lloyd.	
Brown (Archibald).—The Law and Practice in Enfranchisements and Commutations . . . . .	302
Brown (R.).—Commentaries on the Sale of Goods Act, 1893 . . . . .	396
Browne (Irving).— <i>See</i> Ruling Cases.	
Bullowa (F. E. M.).—The History of the Theory of Sovereignty . . . . .	400
Cachard (H.).—The French Civil Code . . . . .	300
Campbell (R.).— <i>See</i> The Revised Reports and Ruling Cases.	
Castle (E. J.).—The Law and Practice of Rating . . . . .	296
Challis (H. W.).— <i>See</i> Hood (H. J.).	
Chambers (G. F.).—A Digest of the Law relating to District Councils . . . . .	400
Chand (Hukm).—A Treatise on the Law of Res Judicata . . . . .	104, 289
Cherry (B. L.).— <i>See</i> Wolstenholme (E. P.).	
Chitty (A. J.).— <i>See</i> Palmer (F. B.).	
Clay (W. G.).—The Law and Practice relating to Writs of Summons . . . . .	104
Conti (Ugo).—L'Intervento della Difesa nell' Istruttoria . . . . .	189
Cooper (F. T.).—A Handbook of the Law of Defamation and Verbal Injury . . . . .	103, 299
Craies (W. F.).—The Building Societies Act, 1894 . . . . .	103
—The London Building Act, 1894 . . . . .	103
— <i>And see</i> Lely (J. M.).	
Cripps-Day (F. H.).—Adulteration . . . . .	102
David (A. J.).— <i>See</i> Dyer (Bernard).	
Davidson (M. G.).—Concise Precedents in Conveyancing . . . . .	104
Day (S. H.).—Rogers on Elections; Municipal Elections and Peti- tions . . . . .	197
—Parliamentary Elections and Petitions . . . . .	399
Donisthorpe (Wordsworth).—Law in a Free State . . . . .	197
Drage (Geoffrey).—The Unemployed . . . . .	205
Duncan (G. W.).— <i>See</i> Mansfield (Hon. G. W.).	

Dunn (H. A. C.).— <i>See</i> Hood (H. J.).	
Dwight (T. W.).—Commentaries on the Law of Persons and Personal Property (ed. E. F. Dwight)	103, 203
Dyer (Bernard) and David (A. J.).—Fertilisers and Feeding Stuffs	102
Edmunds (Lewis), Stevens (T. M.) and Slade (M. V.).—The Law of Copyright in Designs	298
———The Patents, Designs and Trade Marks Acts, 1883 to 1888	302
Evans (P. F.).—Bateman's Law of Auctions	205
Every Man's own Lawyer	204
Fanshawe (E. L.).— <i>See</i> Wright (R. S.).	
Foa (Edgar).—The Relationship of Landlord and Tenant	302
Fowler (R. L.).—History of the Law of Real Property in New York	302
Franqueville (Comte de).—Le système judiciaire de la Grande Bretagne	302
Freeth (Evelyn).—A Guide to the New Death Duty	96
Ginnell (Laurence).—The Breton Laws	100
Gow (William).—Marine Insurance	301
Hall (W. Clark).—The Law relating to Children	103
——(W. E.).—A Treatise on International Law	400
Hamilton (W. R.).—The Indian Penal Code, with Commentary	400
Harman (John Eustace).—The Finance Act, 1894	96
Hazen (C. D.).— <i>See</i> Borgeaud (Charles).	
Hobhouse (Henry).— <i>See</i> Wright (R. S.).	
Holland (T. E.).—The Elements of Jurisprudence	203
Hood (H. J.), Challis (H. W.) and Dunn (H. A. C.).—Conveyancing and Settled Land Acts	193
Horsburgh (Bethune).— <i>See</i> Whitcombe (John).	
Howell (George).—A Handy Book of the Labour Laws	205
Hume-Williams (W. E.) and Macklin (A. R.).—The Taking of Evidence on Commission	396
Humphreys-Davies.— <i>See</i> Boyle (Edward).	
Hunter (Sir R.).—Footpaths and Commons	204
Innes (L. C.).—A Digest of the Law of Easements	302
Institute of International Law, The	303
Jahrbuch der internationalen Vereinigung für vergleichende Rechtswissenschaft und Volkswirtschaftslehre zu Berlin	399
Jenks (Edward).—An Outline of English Local Government	194
Jitta (D. J.).—La Codification du droit international de la faillite	205
Johnston (J.).— <i>See</i> Stringer (F. A.).	
Judicial Statistics (ed. C. E. Troup)	292
Ker (W. C. A.) and Pearson-Gee (A. B.).—Commentary on the Sale of Goods Act, 1893	94
Kerr (Norman).—Inebriety or Narcomania	102
Land Transfer in Scotland	320
Lathom (H. W.).—A Handy Guide to the Licensing Laws	99
Law Journal Quarterly Digest, The	301

	PAGE
Layman (E.).—The Lawyer's Companion and Diary for 1895 . . .	103
Leavitt (J. B.).—The Law of Negligence in New York . . .	300
Leggett (Eugene).—A Treatise on the Law of Charter-parties . . .	201
Lely (J. M.).—The Statutes of Practical Utility . . .	103
— and Craies (W. F.).—A Collection of Statutes relating to Criminal Law . . .	205, 290
Liebermann (F.).—Über die <i>Leges Anglorum</i> sæculo XIII ineunte Londoniis Collectae . . .	101
— Über Pseudo-Cnuts Constitutiones de Foresta . . .	101
Lightwood (J. M.).—A Treatise on Possession of Land . . .	93
Lloyd (Fyre).—The Law of Compensation (ed. W. J. Brooks) . . .	298
Macdonald (J. H. A.) and Macdonald (N. D.).—A Practical Treatise on the Criminal Law of Scotland . . .	190
Macklin (A. R.).—See Hume-Williams (W. E.).	
Macnaghten (C.).—See Palmer (F. B.).	
M'Neil (A.).—See Wallace (W.).	
Macoun (J. Ritchie).—The Building Societies Acts . . .	202
Maitland (F. W.).—See Mirror of Justices.	
Mansfield (Hon. J. W.) and Duncan (G. W.).—The Merchant Shipping Act, 1894 . . .	205
Mather (P. E.).—A Compendium of Sheriff Law . . .	104, 191
Matthews (J. B.).—The Law relating to Children and Young Persons . . .	202
Medley (D. J.).—A Manual of English Constitutional History . . .	95
Mews (John).—The Annual Digest, 1894 . . .	205
Mirror of Justices, The, Selden Society (ed. W. J. Whittaker) . . .	393
Morison (H. N.).—Advocacy and Examination of Witnesses . . . in India . . .	399
Nelson (Reginald A.).—The Law of Property . . .	302
Oswald (J. F.).—Contempt of Court . . .	299
Palmer (F. B.), Macnaghten (C.) and Chitty (A. J.).—Company Precedents . . .	400
Pearson-Gee (A. B.).—See Ker (W. C. A.).	
Perley (Sidney).—Principles of the Law of Interest . . .	98
Pike (L. O.).—A Constitutional History of the House of Lords . . .	86
Pollock (Sir F.).—The Law of Torts . . .	205
And see The Revised Reports.	
Prideaux's Precedents in Conveyancing (ed. J. Whitcombe and B. Hors- brugh) . . .	293
Pulling (Alexander).—The Shipping Code, 1894 . . .	97
Rae (John).—Eight Hours for Work . . .	205
Randolph (Carman F.).—The Law of Eminent Domain in the United States . . .	103, 202
Rattigan (Sir W. H.).—Private International Law . . .	295
Revised Reports, The (ed. Sir F. Pollock, R. Campbell, O. A. Saun- ders) . . .	103, 302, 400



	PAGE
Ringwood (R.).—The Principles of Bankruptcy . . . . .	302
Ritchie (D. G.).—Natural Rights . . . . .	104, 197
Robinson (Arthur).—The Law relating to Income Tax . . . . .	205
Rogers.— <i>See</i> Day (S. H.).	
Ruling Cases (ed. R. Campbell and Irving Browne) . . . . .	103, 199, 205, 400
Ryde (W. C.).—An Election Manual for Parish Councillors . . . . .	99
Saunders (O. A.).— <i>See</i> The Revised Reports.	
Scrutton (T. E.).—The Merchant Shipping Act, 1894 . . . . .	200
Shearer (R. B.).— <i>See</i> Angus (J. W.).	
Skene (W. B.).—Handbook of Acts affecting the Universities of Oxford and Cambridge . . . . .	102
Slade (M. V.).— <i>See</i> Edmunds (Lewis).	
Stephen (Sir J. F.).—A Digest of the Criminal Law (ed. Sir H. Stephen and H. L. Stephen) . . . . .	103, 203
———(Leslie).—The Life of Sir James Fitzjames Stephen . . . . .	302, 383
Stevens (T. M.).— <i>See</i> Edmunds (Lewis).	
Stiff (H. W.).—A new Guide for Articled Clerks . . . . .	400
Stringer (F. A.) and Johnston (J.).—A Diary for Lawyers . . . . .	103
Temperley (Robert).—The Merchant Shipping Act, 1894 . . . . .	205, 293
Theobald (H. S.).—A Concise Treatise on the Law of Wills . . . . .	294
Troup (C. E.).—Judicial Statistics . . . . .	292
Tyser (Charles R.).—The Law relating to Marine Insurance . . . . .	192
Valéry (Jules).—Des Contrats par correspondance . . . . .	104, 290
Vincent (J. M.).— <i>See</i> Borgeaud (Charles).	
Walker (T. A.).—A Manual of Public International Law . . . . .	295
Wallace (W.) and McNeil (A.).—Banking Law . . . . .	397
Wambaugh (Eugene).—The Study of Cases . . . . .	104, 198
Weiss (André).—Traité théorique et pratique de droit international privé . . . . .	288
Westlake (John).—Principles of International Law . . . . .	91
Whitcombe (John), Horsbrugh (Bethune).—Prideaux's Precedents in Conveyancing . . . . .	293
White (J. D.).—The Merchant Shipping Act, 1894 . . . . .	103, 201
Whittaker (W. J.).— <i>See</i> Mirror of Justices.	
Williams (James).—Briefless Ballads and Legal Lyrics . . . . .	204
———(John H.) and Yates (W. B.).—The Law of Ejectment . . . . .	196
———(Joshua).—Principles of the Law of Personal Property (ed. T. Cyprian Williams) . . . . .	92
Wills (William).—The Theory and Practice of the Law of Evidence . . . . .	193
Wolstenholme (E. P.), Brinton W.) and Cherry (B. L.).—The Con- veyancing Acts, 1881, 1882 and 1892, &c. . . . .	302, 398
Wright (R. S.) and Hobhouse (Henry).—An Outline of Local Govern- ment in England and Wales (ed. H. Hobhouse and E. L. Fanshawe) . . . . .	195
Wurtzburg (E. A.).—The Law relating to Building Societies . . . . .	400
Yates (W. B.).— <i>See</i> Williams (John H.).	

## TABLE OF CASES, 1895.

[This table includes only recent cases specially noted or discussed.]

- |   |   |
|---|---|
| <p>Abdy, <i>Re</i>, 213.<br/> Alderson, <i>Re</i>, 112.<br/> Att.-Gen. v. Camberwell Vestry, 6.<br/> Baerlein v. Chartered Mercantile Bank, 311.<br/> Baynes v. Lloyd, 215.<br/> Betjemann v. Betjemann, 312.<br/> Bolton &amp; Co., <i>In re</i>, 4.<br/> Bolton v. Curre, 111.<br/> Boyd v. Gt. N. Ry. Co., 313.<br/> Bradford (Corporation of) v. Pickles, 108.<br/> Broderip v. Salomon, 212, 315.<br/> Brooke, <i>Re</i>, 8.<br/> Burt v. Bull, 110.<br/> Canterbury (Mayor of) v. Wyburn, 105.<br/> Chastey v. Ackland, 317.<br/> Chatterton v. Secretary of State for India, 314.<br/> Chilton v. Progress Printing Co., 211.<br/> Cliff, <i>Re</i>, Edwards v. Brown, 212.<br/> Coalport China Co., <i>Re</i>, 315.<br/> Cronk v. Owen, 110.<br/> Davies v. Bolton &amp; Co., 7.<br/> Eckersley v. Mersey Docks Board, 5.<br/> Edwards, <i>Re</i>, 9.<br/> Edwards v. Brown, <i>Re</i> Cliff, 212.<br/> Farbenfabriken Vormals, <i>Re</i>, 6.<br/> Flood v. Jackson, 306-310.<br/> Foveaux, <i>Re</i>, 318.<br/> Fuller v. Blackpool, &amp;c. Co., 318.<br/> General Ass. Co. v. Worsley, 216.<br/> Gt. N. Ry. Co. v. Palmer, 214.<br/> Gwilliam v. Twist, 314.<br/> Hamilton, <i>Re</i>, 110, 316.<br/> Hamilton v. Vaughan-Sherrin Electrical Engineering Co., 5.</p> | <p>Hanfstaengl v. American Tobacco Co., 108.<br/> ——— Baines, 107.<br/> ——— Empire Palace 3<br/> ——— Newnes, 3.<br/> Harding, <i>In re</i>, 4.<br/> Helby v. Matthews, 306.<br/> Hestia, The, 216.<br/> Hood Barrs v. Cathcart, 4, 312.<br/> Huddersfield Banking Co. v. Lister, 317.<br/> Huffam v. N. Staffordshire Ry. Co., 10.<br/> Innes v. Newman, 8.<br/> Jeffery v. St. Pancras Vestry, 8.<br/> Jones v. Palmer, 318.<br/> Kelly v. Met. Ry. Co., 214.<br/> Kempshall v. Holland, 216.<br/> Lambton v. Mellish, 7.<br/> Le Mesurier v. Le Mesurier, 305.<br/> Loftus v. Heriot, 312.<br/> Lumley, <i>Re</i>, 4.<br/> Maskell and Goldfinch's Contract, <i>Re</i>, 320.<br/> Mellin v. White, 208.<br/> Melville v. Mirror of Life Co., 317.<br/> Meux v. G. E. R. Co., 313.<br/> Morley v. Rennoldson, 213.<br/> Newman &amp; Co., <i>Re</i>, 213.<br/> Nordenfelt v. Maxim-Nordenfelt, &amp;c., Co., 2.<br/> North-Western Bank v. Poynter, 107.<br/> Nottage, <i>Re</i>, 318.<br/> Otway, <i>Re</i>, 212.<br/> Painter, <i>Re</i>, 111.<br/> Piery, <i>Re</i>, 105.<br/> Powell v. Birmingham Vinegar Brewery Co., 109.</p> |
|---|---|

Reddaway v. Benham, 110.	Sirdar Gurdial Singh v. Rajah of Faridkote, 3.
Robb v. Green, 316.	Smith v. Wallace, 111.
Robins v. Gray, 320.	Strachan v. Universal Stock Exchange, 316.
Robinson King & Co. v. Lynes, 5.	Sweet v. Sweet, 111.
Robson v. Smith, 215.	Taylor v. M. S. & L. Ry. Co., 214, 313.
Rymer, <i>Re</i> , 109.	Thorne v. Cann, 207.
Salt's Trade Mark, <i>Re</i> , 6.	Trego v. Hunt, 210.
San Paulo Ry. Co. v. Carter, 208.	Trench v. Hamilton, 316.
Satanita, <i>The</i> , 310.	Turner v. Green, 319.
Scholfield v. Lord Londesborough, 9, 10.	Warren v. Murray, 4.
Seaton v. Lord Deerpur, 211.	Wigram v. Buckley, 6.
Shelfer v. City of London Electric Lighting Co., 109.	Woodin, <i>Re</i> , 322.